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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/942,268	08/28/2001	Wolfgang Rempe	VAW-4	6261

1473 7590 12/20/2002

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EXAMINER

LARSON, LOWELL A

ART UNIT

PAPER NUMBER

3725

DATE MAILED: 12/20/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/942,268	REMPE ET AL.
Examiner	Art Unit	
Lowell A. Larson	3725	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 6 to 13 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 6 to 13 is/are rejected.
- 7) Claim(s) \_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_ is: a) approved b) disapproved by the Examiner.
 

If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6.
- 4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_.

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## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 6, 10 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Pellizzari.

See page 1, lines 47 to 59.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 6, 8, 10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Giesler in view of Pellizzari.

Giesler shapes a tube by mechanically expending, annealing and hydroforming, as required by these claims. Giesler does not disclose how the initial tube is formed.

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Pellizzari discloses forming a tube fitting by combined mechanical expansion and hydroforming, and advises that the initial tube may be formed by butt welding.

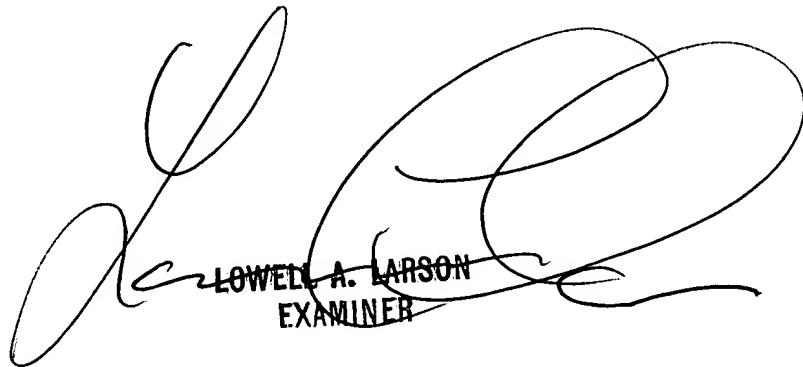
It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ weld-seamed tube for the initial tube in Giesler following the suggestion of Pellizzari that such tubes are suitable for the fabrication of tubular fittings. Including an additional mechanical shaping between the mechanical expansion and hydroforming, as recited in Claim 12, is well known, as shown by Pellizzari, and is considered to be merely an obvious exercise of designer's choice depending only on the characteristics desired in the product, and not a patentable distinction absent a disclosure of criticality in the solution of stated problems with the use of any specific combination of such forming steps.

5. Claims 7, 9, 11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Giesler in view of Pellizzari as applied to Claim 6 above, and further in view of Tada.

These claims require multiple mechanical expanding steps. Tada shows it is well known in the art to perform mechanical expansion of weld-seamed tube in multiple steps. See Figures 4 (A), (B) and (C). It would have been obvious to one skilled in the art to perform the Giesler mechanical expansion of Figure 2 in multiple steps, as shown by Tada, in order to avoid cracking the tube end. Intermediate annealing is considered to be an obvious expedient to one skilled in the art if the material of the tube is such that fracture is likely upon severe working.

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to the undersigned Examiner whose telephone number is (703) 308-1873 and fax number is (703) 305-9835 (draft papers) or (703) 305-3579 (formal papers).



A handwritten signature in black ink, appearing to read "LARSON". Below the signature, the name "LOWELL A. LARSON" is printed in a standard font, with "EXAMINER" printed directly underneath it.

LAL

December 17, 2002